



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A. (MD)No.1011 of 2011 and

M.P. (MD)No.2 of 2011

WEB COPY

Umajothi

... Appellant /Appellant /Plaintiff
Vs.

1.The Executive Officer,
Vadamadurai Town Panchayat,
Vadamadurai.

2.The District Collector,
Office of the District Collector,
Dindigul District.

3.The Tahsildar,
Vedasandur Taluk Office,
Dindigul District.

... Respondents/Respondents/Defendants

Prayer: Second appeal filed under Section 100 of C.P.C., to set aside the decree and judgment dated 27.10.2010 rendered in A.S.No.89 of 2008 on the file of the Additional Subordinate Judge, Dindigul, confirming the decree and judgment dated 25.04.2007 rendered in O.S.No.71 of 1997 on the file of the District Munsif cum Judicial Magistrate, Vedasandur, by allowing this Second Appeal and to grant such other relief or reliefs.

For Appellants : Mr.S.Balasubramanian
For Respondents : Mr.R.Ragavendran,
Government Advocate.

* * *

J U D G M E N T

The plaintiff in O.S.No.71 of 1997 on the file of the District Munsif cum Judicial Magistrate, Vedasandur, is the appellant in this second appeal.

2. The suit was filed seeking the relief of declaration and permanent injunction. The plaintiff was examined as P.W.1. On behalf of the local body, the executive officer was examined as D.W.1. Documents were marked on either side. By judgment and decree dated 25.04.2007, the trial Court dismissed the suit. The same was confirmed by the first appellate Court on 27.10.2010 in A.S.No.89 of 2008. Challenging the same, this second appeal came to be filed.

3. Though the second appeal is of the year 2011, it has not been admitted till date.

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4. The Courts below have concurrently found that the plaintiff was paying ground rent to the local body and had put up a superstructure and running a petty business which is adjacent to road. It has been established beyond doubt. Even according to the plaintiff, the suit property belonged to the local body and it was let out on payment of ground rent. Merely because, the plaintiff was allowed to be a licensee for a long number of years, that will not confer any right to continue in possession. This is a well settled proposition. That is why, the trial Court declined to grant the relief of declaration and permanent possession against the defendants. No substantial questions of law arises for consideration. At the same time, I must also hold that when the appellant is in possession of the suit site, the respondents will have to follow due process of law before evicting the appellant. Merely because this appeal has been dismissed, that does not necessarily mean that the appellant should be evicted. I have only sustained the judgment of the Courts below that the plaintiff cannot be granted the relief of declaration, nor the defendants can be restrained by a decree of permanent injunction. That does not mean that the appellant should be thrown out. It is a policy decision that has to be taken by the defendants. If the defendants take a policy decision to evict the plaintiff, then they have to necessarily follow the procedure set out in the relevant statute.

5. With this observation and clarification, this second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Additional Subordinate Judge,
Dindigul.

2.The District Munsif cum Judicial Magistrate,
Vedasandur.

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dated 01/09/2021)

+1 CC to M/s.GP (SR-27653[F] dated 31/08/2021)

S.A.(MD)No.1011 of 2011
27.08.2021

DJ(CO)

GC/JC(08.11.2021) 3P 7C